

FOUNDERS TRACE MINING

Ex. 60

Action by the Directors by Written Consent

This Action of the Directors of Founders Trace Mining, a Wyoming corporation, by Written Consent taken this 2nd day of February, 2004.

Resolved, that the following persons be and they hereby are elected to the offices indicated:

Larry W. Hull - President

George D. McCarley – Chief Turnaround Officer, Chief Operations Officer

Thomas Ford – Chief Executive Officer

Mark A. Oldham – Chief Financial Officer

Further Resolved, that the business and operations undertaken by the corporation since its last action of the Board of Directors, and the actions of the officers and directors of the corporation in connection therewith, are hereby fully approved and ratified.

Thomas Ford, Director

Larry W. Hull, Director

George D. McCarley, Director

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
ASHLAND DIVISION

In re:)	In Proceedings Under Chapter 11
)	
HORIZON NATURAL RESOURCES,)	Case No. 02-14261
COMPANY, ET AL.,)	
)	Jointly Administered
)	
Debtors.)	Judge William S. Howard
)	

**AFFIDAVIT OF GEORGE D. MCCARLEY
IN SUPPORT OF SUPPLEMENTAL STATEMENT OF OFFICIAL COMMITTEE OF
UNSECURED CREDITORS IN SUPPORT OF OBJECTION TO
MOTION OF FAIRVIEW LAND COMPANY AND OLD BEN COAL COMPANY FOR
ORDER: (A) ESTABLISHING AUCTION PROCEDURES TO SELL CERTAIN REAL
ESTATE AND RELATED ASSETS AND TO ASSUME AND ASSIGN CERTAIN
EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (B) SETTING
SALE HEARING DATE; AND (C) APPROVING FORM OF NOTICE**

GEORGE D. MCCARLEY, being duly sworn, deposes and says as follows:

1. I am the Chief Operating Officer of Founders Trace Mining ("Founders"), a Wyoming corporation. I have over 10 years of experience in the Mining industry.
2. Founders is an entity formed for the purpose of pursuing the acquisition of certain assets owned by Horizon Natural Resources Company and its related debtors in the above-captioned chapter 11 cases (the "Debtors").
3. I submit this Affidavit in support of the Official Committee of Unsecured Creditors' (the "Committee") Supplemental Statement in Support of the Committee's objection to the Motion of Fairview Land Company and Old Ben Coal Company for order: (a) establishing auction procedures to sell certain real estate and related assets and to assume and assign certain executory contracts and unexpired leases (the "Old Ben Sale"); (b) setting sale hearing date; and (c) approving form of notice.

4. Founders is in the process of submitting a proposal to the Debtors to acquire certain of the Debtors' assets (the "Founders Proposal"). The Founders Proposal revolves around purchasing assets that the Debtors have deemed "non-core," both in public filings and in confidential communications with Founders and other parties.

5. An integral part of the Founders Proposal is the acquisition of significant coal reserves held by the Debtors in Illinois and Indiana. Included among those reserves are the millions of tons of reserves (the "Old Ben Reserves") that are proposed to be sold to Steelhead Development Company, LLC in the Old Ben Sale.

6. Founders' interest in pursuing the Founders Proposal or any other transaction involving the Debtors is dependent on the Debtors' retaining significant reserves such as the Old Ben Reserves. The acquisition of the Old Ben Reserves, standing alone, does not interest Founders because it is focusing on a more significant transaction rather than picking up individual assets as part of a quasi-liquidation process.

Dated: February 27, 2004

George D. McCarley

SUBSCRIBED AND SWORN to before me,
this _____ day of February, 2004.

Notary Public
My Commission Expires

each party," it said. Bids must be valid until June 21.

Tyrone burns about 125,000-130,000 tons/year. Contracts with **Austin Coal** and **Bluegrass Synfuel** run through 2004, according to reports, supplemented by spot purchases. KU last fall bought 20,000 tons from **C/C Chemical & Coal** for Tyrone at a price of 158.33¢/mmBtu (\$38.00/ton) delivered (CO 11/17/03).

For details, contact Mike Dotson at 502-627-2322 or Steve Dufour at 502-627-2158.

St. Marys Municipal Light & Power

St. Marys (Ohio) Municipal Light & Power has invited offers until bid opening at noon March 24 on a potential multi-year supply of coal, along with an ash-disposal agreement. Bidders must have at least five years of experience in coal mining.

The city intends to contract for approximately 30,000 tons/year of crushed and washed bituminous coal on specs which include calculations based on 12,200 Btu/lb minimum, 5.9 lbs SO₂/mmBtu maximum (monthly average, but not less than 2% sulfur), 7% moisture maximum as-received, 7% moisture maximum as-received, 2,100-degrees minimum ash-softening temperature, 45 Hardgrove minimum, and size 1 ½ x 0-inch with 3/8 x 0-inch not to exceed 30%. Delivery is by truck.

The initial term will be for one year, with annual extensions possible by agreement 40 days prior to the end of each contract year. Bids must remain valid for 90 days after the bid-opening date.

Bids marked "Coal and Ash Bid" go to Director of Public Service and Safety, 101 E. Spring Street, St. Marys, Ohio 45885. For additional information, contact Jerry Wolfe at 419-394-3303, ext. 116.

BANKRUPTCIES

Horizon reorganization plan emerges; uncertainty remains on core assets

A possible plan of reorganization and refinancing for **Horizon Natural Resources** has recently been worked out, though it isn't clear which assets will be kept and which will be shed as part of that plan.

On March 2, the "ad hoc committee," the members of which hold most of Horizon's term notes, told Horizon's court it has worked out a tentative plan of reorganization with Horizon and its new financial adviser, **Miller Buckfire Lewis Ying & Co.** The final touches to this plan were put together on or around Feb. 24.

"The noteholders believe the proposed plan is feasible and offers the best – and only – chance of avoiding a total liquidation of the debtors' assets," said the committee.

Under the plan, committee members would invest up to \$100 million in new equity. These members are **Contrarian Capital Management**, **Greenlight Capital**, **Stark Investments** and **Varde Partners Inc.**

In addition to this capital infusion, there will be \$250 million of new debt financing. That financing is currently being solicited and should be in place by March 31, the committee added. This \$250 million, plus the \$100 million in equity, will be used to pay off \$235 million worth of debtor-in-possession financing put up by **Deutsche Bank**, plus all existing administrative claims and the expenses of executing the reorganization plan.

Because Horizon is running short of operating cash, committee members said they are willing to advance an immediate \$25 million of debtor-in-possession financing that would be on top of the \$100 million equity commitment.

On Feb. 27, the unsecured creditors committee in this case renewed its objection to Horizon's plan to sell undeveloped reserves in Illinois (see below). The ad hoc committee said that it, too, was originally opposed to that sale. But, since these Illinois reserves are not "material" to this new reorganization plan, it is withdrawing its objections.

There is a hint in the ad hoc committee filing of "designated assets" that will be put up for sale, but no listing of what they are or what operations Horizon will keep.

Rumors among parties around the Horizon case is the company basically wants to sell, to the extent it can, the mines represented by the **United Mine Workers of America**. The rumors, which couldn't be confirmed, include the **Starfire** surface operation in eastern Kentucky and **Kindill Mining** in Indiana. Also, how Horizon's massive **UMWA** liabilities will be dealt with is not mentioned in the ad hoc committee's plan.

The official reorganization plan, with those kinds of details, should be filed soon; the new financing agreement has a termination right that kicks in if the plan is not filed with the court by March 18, though that could be extended 15 days at the request of Horizon.

In other developments:

McCarley aims at Horizon assets in Illinois Basin

George McCarley, who describes himself as a 10-year veteran of the mining industry, has joined with the unsecured creditors committee of Horizon to oppose a plan to auction undeveloped **Old Ben** Coal reserves in Illinois. McCarley is chief operating officer of **Founders Trace Mining**, which is putting together an offer for Horizon assets that in public and confidential court filings have been identified as "non-core," particularly properties in Illinois and Indiana. And McCarley said in a Feb. 27 affidavit filed with the court that one of the properties he wants is the **Old Ben** reserve in Illinois that Horizon has a tentative deal to sell to **Steelhead Development LLC** (CO 2/9).

"Founders' interest in pursuing the Founders Proposal or any other transaction involving the debtors is dependent on the debtors retaining significant reserves such as the **Old Ben** reserves," wrote McCarley. "The acquisition of the **Old Ben** reserves, standing alone, does not interest Founders because it is focusing on a more significant transaction rather than picking up individual assets as a part of a quasi-liquidation process."